



September 13, 2012

By Electronic Filing

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **EX PARTE**
WT Docket Nos. 12-70 and 04-356; ET Docket No. 10-142

Dear Ms. Dortch:

DISH Network Corporation (“DISH”) urges expeditious adoption of final AWS-4 rules to provide the regulatory certainty required for DISH to proceed with its planned wireless investments based on the existing band plan. DISH is encouraged that a broad cross-section of parties are calling for prompt Commission action and the rejection of proposals to shift the AWS-4 spectrum up 5 MHz.

Recently, the Public Interest Spectrum Coalition (representing the New America Foundation, Consumers Union, Public Knowledge, and Free Press) declared that a 5 MHz shift “is far more likely to harm than to serve the public interest.”¹ According to the Coalition, the shift would “cause potentially extensive delay in the buildout and market entry of a new competitive wireless service provider.”² It also would “result in substantial interference from government satellite systems [above 2025 MHz],” while offering “remote and hypothetical” benefits.³ The Computer & Communications Industry Association (“CCIA”) expressed similar concerns that a shift “would require a total ‘do-over’ of the standards setting process ... causing substantial further delay in the deployment process.”⁴

Just yesterday, as part of a broader examination of the Commission’s spectrum policy, the Phoenix Center issued a policy paper critical of proposals to change the band plan “for already

¹ Letter from Michael Calabrese, New America Foundation, to Marlene H. Dortch, Secretary, FCC, WT Docket Nos. 12-70, 12-69 and 10-4; ET Docket No. 04-186, at 3 (Aug. 27, 2012).

² *Id.*

³ *Id.*

⁴ Letter from Catherine R. Sloan, CCIA, to Marlene H. Dortch, Secretary, FCC, WT Docket Nos. 12-70 and 04-356; ET Docket No. 10-142, at 1 (Sept. 9, 2012). *See also* Comments of Alcatel-Lucent, WT Docket Nos. 12-70 and 04-356; ET Docket No. 10-142, at 9 (May 17, 2012).

acquired spectrum.”⁵ The Phoenix Center explicitly highlighted proposals to shift upwards the AWS-4 spectrum as a clear example of a “tax” that would have “obvious potential impact on the value of this spectrum.”⁶ The paper notes many of the key public policy harms related to changing the AWS-4 band plan at this late date, including “requir[ing] an entirely new standard setting process and delay[ing] service to consumers for years.”⁷ The Phoenix Center also highlighted the potential negative impact on mobile satellite services and global harmonization of the spectrum.⁸

The Commission should thus complete its rulemaking rapidly and need not further consider aggressive changes to the AWS-4 band plan that would only serve to delay utilization of the spectrum for mobile broadband use.

Respectfully submitted,

/s/ Jeffrey Blum

Senior Vice-President and Deputy General Counsel

⁵ T. Randolph Beard, PhD *et al.*, Phoenix Center for Advanced Legal & Economic Public Policy Studies (“Phoenix Center”), *Taxation by Condition: Spectrum Repurposing at the FCC and the Prolonging of Spectrum Exhaust*, Phoenix Center Policy Paper No. 44, at 11 (Sept. 2012), <http://www.phoenix-center.org/pcpp/PCPP44Final.pdf>.

⁶ *Id.* at 12.

⁷ *Id.*

⁸ *Id.*